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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Equal Access and Interconnection) CC Docket No. 92-54
Obligations Pertaining to) RM-8012
Commercial Mobile Radio Services)

COMMENTS

Pacific Telecom Cellular, Inc. ("PTC"), by its attorneys, and pursuant to Section 1.415 of the Federal Communications Commission's rules and regulations, 47 C.F.R. § 1.415, submits these comments on the Notice of Proposed Rulemaking and Notice of Inquiry ("Notice") in the above-referenced proceeding.^{1/} In this proceeding the Commission proposes that equal access obligations be imposed on cellular providers.

PTC opposes the application of equal access requirements to cellular because it is an unnecessary burden, and rather than benefit cellular customers, it will result in higher charges.

I. BACKGROUND

1. The Commission seeks to impose equal access obligations similar to those applicable to landline local exchange carriers ("LECs") on classes of commercial mobile radio services ("CMRS") providers. As the Commission points out in its Notice, equal access was imposed on Bell Operating Carriers ("BOCs") under the terms of the Modified Final Judgment ("MFJ"), which implemented divestiture of AT&T. The purpose of divesting AT&T of its local exchange carriers (the BOCs) was to "permit unfettered competition between

^{1/} Order extending the comment deadline to September 12, 1994 released August 11, 1994 (DA 94-877)

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AT&T and other IXCs." (Notice at para 6) The Commission subsequently imposed equal access on all landline LECs to promote competition among interexchange carriers ("IXCs"). In response to a Petition by MCI the Commission considered whether to adapt equal access requirements to cellular.^{2/}

2. The Commission now tentatively concludes that although equal access was conceived in the landline LEC environment in response to AT&T's monopoly over the local exchange bottleneck, it should now be applied to cellular carriers. (Equal access was extended to non-BOC LECs upon request by an IXC.) Whereas in the cellular marketplace, there is competition among IXCs, in the landline marketplace, IXC competition was impeded by virtue of AT&T's monopoly on access to BOC customers. In this important respect, the cellular industry differs significantly from the pre-divestiture landline marketplace.

3. In its Notice, the Commission enumerated the criteria for determining whether equal access should be imposed on particular segments of the CMRS market. The Commission found that "the public interest determination with respect to equal access should include . . . a market power analysis" (Notice at para 31) It further stated that, "[t]he presence or absence of market power is an important factor in determining whether the imposition of equal access obligations on CMRS providers may be in the public interest."

^{2/} (RM-8902, Notice inviting comments released June 10, 1992, DA 92-745) Notably, MCI largely analogized the situation of the BOCs in the divestiture environment to the cellular industry, with which it bore no relation.

(Notice at para. 32) Despite this emphasis on market power as a determinative factor in its equal access analysis, and although it found that "there was insufficient evidence to conclude that the cellular marketplace was fully competitive" (Notice at para. 42), the Commission tentatively decided to impose equal access on cellular entities. The Commission concluded that imposing equal access obligations on cellular providers would result in competitive benefits to consumers (such as increasing choice and lowering price of long-distance service originating or terminating in cellular areas.) In fact, equal access in the cellular environment will actually result in increased charges to cellular customers. Inasmuch as equal access as applied to cellular does not further the Commission's policy objectives, it should not be imposed.

II. IMPOSING EQUAL ACCESS ON CELLULAR PROVIDERS WILL RESULT IN HIGHER CHARGES

4. Cellular operators such as PTC have been innovative in finding ways to minimize costs to their customers making long-distance calls. Cellular operators have been able to offer expanded toll-free calling by such means as bulk buying and aggregating traffic. Operators have also reduced customers' charges by offering larger local calling areas than landline carriers. PTC offers its customers a minimum local calling area of an entire market. Such calls would require a toll charge and an interconnection charge if placed over landline telephone. Thus, if equal access were imposed on cellular carriers, cellular customer charges for short-haul long-distance calling that is currently toll-free would increase. This

result is antithetical to a central goal of the Commission's equal access policy, which is the reduction of costs to subscribers.

5. In addition, some of PTC's local calling area boundaries extend beyond the market boundary; and therefore PTC offers its customers an even greater price advantage over landline calling. Moreover, some of PTC's markets cross multiple LATA boundaries. Customers in these markets currently enjoy toll-free calling whereas, in an equal access environment, these calls would involve toll charges.

6. Without the rigid requirements of equal access PTC is able to offer its customers a choice of service and pricing options. For example, PTC customers may opt for statewide toll-free calling or somewhat more restrictive variations. One of the Commission's goals in this proceeding is to increase customer choice. However, it is clear from the examples noted herein that cellular customers would have less of a choice in the price that they pay for long-distance calls if equal access were imposed on cellular providers.

7. Added to the elimination of these benefits, the cost of implementing equal access in the cellular environment is considerable. PTC has switches in three of its markets that are not compatible with equal access. It estimates that the cost of replacing this equipment would be over \$1 million per switch, or over \$3 million total. In the face of such burdensome costs, it may not be economically feasible to employ means such as bulk buying and traffic aggregation to bring down customer charges. In sum, given the cost of equal access conversion, the resulting elimination

of cost saving measures that are no longer feasible, and the loss of extended calling local areas and pricing options, the benefits to cellular customers of equal access appear illusive.

III. CONCLUSION

8. Faced with costs of implementing equal access, cellular providers may not find it feasible to take the initiatives that, in the long run, reduce cellular customers' costs. And cellular customers will lose the price advantages they currently enjoy if equal access were applied to cellular. Therefore, customers may not benefit from equal access, either in the area of choice or in the area of cost savings. On balance then, the costs of imposing equal access on cellular providers is outweighed by its negative impact on cellular operators and their customers.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Katherine A. Baer, a secretary in the law offices of Lukas, McGowan, Nace & Gutierrez, Chartered, do hereby certify that I have on this 12th day of September, 1994, had copies of the foregoing COMMENTS hand-delivered to the following:

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A handwritten signature in cursive script, reading "Katherine A. Baer", written over a horizontal line.

Katherine A. Baer